STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0979

Town of White Bear,
Respondent,

vs.

Scott Stoddard, et al.,
Appellants,

County of Ramsey, et al.,
Respondents Below.

Filed March 9, 2020
Affirmed
Worke, Judge

Ramsey County District Court
File No. 62-CV-16-7005

Chad D. Lemmons, Patrick J. Kelly, Kelly and Lemmons, P.A., St. Paul, Minnesota (for respondent)

Ryan R. Simatic, Biersdorf & Associates, P.A., Minneapolis, Minnesota (for appellants)

Considered and decided by Bratvold, Presiding Judge; Worke, Judge; and Connolly, Judge.

U N P U B L I S H E D   O P I N I O N

WORKE, Judge

This appeal concerns the payment of interest in a quick-take proceeding. Appellants argue that they are constitutionally entitled to interest from a stipulated date of taking, which occurred prior to the district court effectuating the quick take through the transfer of title to and possession of the property to respondent. We affirm.

FACTS

In July 2015, appellants Scott and Nanci Stoddard (the Stoddards) executed a purchase agreement to develop their approximately 22.3 acre parcel (the property). The development plans envisioned 19 buildable lots on the property. A proposed plat was submitted to respondent Town of White Bear (the town), which included a provision to modify an airport safety zone that limited development because part of the property was within the safety zone. On October 5, 2015, the town denied the proposed plat and safety-zone modification.

In December 2015, the Stoddards commenced an inverse-condemnation action against the town. In August 2016, the town board passed a resolution authorizing a taking of the property through eminent domain. The town filed a condemnation petition in district court in December 2016. In its petition, the town stated that October 5, 2015, was the date of the taking. The Stoddards objected to the town's petition and moved the district court to compel a quick take of the property.

In January 2017, the parties entered into a stipulation to conduct a quick take. The stipulation stated that October 5, 2015, was the date of the taking and called for the transfer of title to and possession of the property upon the town's deposit of the quick-take deposit and the district court's issuance of an order effectuating the taking.

On February 2, 2017, the district court filed an order granting the quick-take petition. The order stated, "[t]hat October 5, 2015 shall be the date of taking." The district court determined "[t]hat pursuant to the [s]tipulation now on record the [town] shall satisfy all requirements set forth in Minn. Stat. § 117.042 by depositing the sum of $528,200.00, being the [town]'s approved appraised value, within 24 hours of the filing of this [o]rder." In accordance with the district court's order, the town deposited the quick-take funds and acquired title to and possession of the property. The district court appointed commissioners who subsequently appraised damages in the amount of $975,000 for the taking.

The town delivered a check to the Stoddards in the amount of $464,817.53, the difference between the commissioners' award of $975,000 and the town's quick-take deposit of $528,200 plus accrued interest. Several days later, the town delivered an additional check to the Stoddards in the amount of $4,163.34, representing additional interest owed due to a miscalculation. Following delivery of the additional check, the district court entered judgment and adopted the commissioners' award as final.

In February 2019, the Stoddards moved to compel the town to pay interest in the amount of $52,035.62, which represented statutory interest accrued under Minn. Stat. § 117.195, subd. 1 (2018), between October 5, 2015, and February 2, 2017. The town responded that they had paid the Stoddards all interest due pursuant to section 117.195. The Stoddards then advanced a constitutional just-compensation argument.

On May 30, 2019, the district court denied the Stoddards' motion to compel the payment of additional interest. The district court found that "the plain application of [s]ection 117.195, which does prohibit the recovery of interest where the date of taking is before the date of possession, does not deny [the Stoddards] an element of just compensation." This appeal followed.

D E C I S I O N

For purposes of this appeal, we focus on whether the Stoddards are entitled to interest from October 5, 2015, through February 2, 2017, as an element of constitutionally required just compensation for a taking.[1] The Stoddards argue that the district court erred by finding that they were justly compensated when the town paid interest pursuant to Minn. Stat. § 117.195, subd. 1. They also argue that, if section 117.195 does not provide for interest from the stipulated date of taking, it is unconstitutional because it fails to provide just compensation. Both arguments involve questions of law, which we review de novo. *See Bjerke v. Johnson*, 742 N.W.2d 660, 664 (Minn. 2007) (applying de novo standard of review to district court's interpretation of the law); *see also Schatz v. Interfaith Care Cntr.*, 811 N.W.2d 643, 653 (Minn. 2012) (applying de novo standard of review when determining constitutionality of a statute).

[1] The Stoddards abandoned their argument that they are entitled to additional interest under Minn. Stat. § 117.195, subd. 1, which provides that "[a]ll damages allowed under this chapter, whether by the commissioners or upon appeal, shall bear interest from the time of the filing of the commissioners' report or from the date of the petitioner's possession whichever occurs first. The rate of interest shall be determined according to section 549.09."

Private property shall not be taken for public use without just compensation. U.S. Const. amend. V; Minn. Const. art. I, § 13. When the government condemns a property, just compensation under the United States Constitution requires that the government put the owner "in as good a position pecuniarily as if his property had not been taken." *Olson v. United States*, 292 U.S. 246, 255, 54 S. Ct. 704, 708 (1934). Our supreme court has stated that just compensation requires a condemning authority to provide "a full and exact equivalent" for property that is taken. *Minneapolis-St. Paul Sanitary Dist. v. Fitzpatrick*, 277 N.W. 394, 398 (Minn. 1937) (quoting *Olson*, 292 U.S. at 254, 54 S. Ct. at 708). Such an equivalent is usually "the market value of the property at the time of the taking contemporaneously paid in money." *Id.*

Interest on a condemnation award from the time of a taking is an element of just compensation. *Kirby Forest Indus., Inc. v. United States*, 467 U.S. 1, 10, 104 S. Ct. 2187, 2194 (1984); *State by Spannaus v. Carney*, 309 N.W.2d 775, 776 (Minn. 1981) ("We have long recognized that interest on a condemnation award from the time of the taking of possession until the time of payment is an element of just compensation."). In a quick-take proceeding, the time of the taking occurs when the district court transfers title to and possession of the property to the condemning authority. *Moorhead Econ. Dev. Auth. v. Anda*, 789 N.W.2d 860, 874 (Minn. 2010).

While interest in a quick-take proceeding is governed by section 117.195, subdivision 1, and section 549.09, our supreme court has noted that the determination of the rate of interest on condemnation awards is a judicial function and automatic application of the statutorily prescribed interest rate does not satisfy the constitutionally required just-compensation requirement. *Carney*, 309 N.W.2d at 776. Therefore, the district court is authorized to award interest beyond that which is required under the statute so as to ensure that a landowner receives just compensation.

Constitutional just-compensation interest

The Stoddards argue that they are constitutionally entitled to interest from October 5, 2015, until February 2, 2017. We disagree. While the district court incorporated October 5, 2015, as the stipulated date of the taking into its order, it also found that title to and possession of the property would vest in the town upon the quick-take deposit, which occurred on February 2, 2017. Under *Anda*, it was on that date when the taking was effectuated. *See* 789 N.W.2d at 874.

The Stoddards' position that the taking occurred on October 5, 2015, has no factual or legal support outside of the stipulation. The record indicates that October 5, 2015, was the date when the town denied the Stoddards' proposed plat and amendment to the airport safety zone. While the record indicates that the Stoddards may have vacated the property during the disputed period, this fact is irrelevant in a quick-take proceeding, because the focus is on when the condemning authority acquired title to and possession of the property.[2] Because the transfer of possession and title did not occur until February 2, 2017, the Stoddards have not shown that they are entitled to constitutional just-compensation interest prior to that date.

[2] On appeal, the Stoddards appear to make a regulatory-taking argument by claiming that they had no use of the property as of October 5, 2015. However, the Stoddards abandoned their regulatory-taking argument once the parties stipulated to a quick-take proceeding.

In support of their position that they are entitled to interest from the date of the stipulated taking, the Stoddards rely primarily on four Minnesota cases.[3] *See In re Condemnation by City of Minneapolis of Certain Lands in Minneapolis*, 632 N.W.2d 586 (Minn. 2001); *State by Mondale v. Bohnen*, 140 N.W.2d 838 (Minn. 1966); *State by Humphrey v. Baillon Co.*, 480 N.W.2d 673 (Minn. App. 1992), *review denied* (Minn. Mar. 26, 1992) (*Baillon Co*.); *In re Condemnation by Minneapolis Cmty. Dev. Agency*, 447 N.W.2d 891 (Minn. App. 1989), *review denied* (Minn. Jan. 12, 1990) (*MCDA*). The Stoddards' reliance on these cases is misplaced.

In *Baillon Co.* and *MCDA*, this court noted that interest on a condemnation award from the time of the taking until the time of payment is an element of just compensation. 480 N.W.2d at 675; 447 N.W.2d at 893. Our use of the word "taking" in those cases referred to when the condemning authority acquired title to and possession of the condemned properties. *See* 480 N.W.2d at 675; 447 N.W.2d at 893. *Baillon Co.* and *MCDA* do not support the Stoddards' argument that they are constitutionally entitled to interest before the date that title and possession are transferred in a quick-take proceeding.

As additional support for their position, the Stoddards rely on the following language from *In re Condemnation by City of Minneapolis*: "More than 80 years ago we held that just compensation includes interest on a condemnation award from the time of an award, which was also when the property was deemed taken by the condemning authority,

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[3] The Stoddards also rely on several federal cases. We have considered these authorities and do not view them as advancing the Stoddards' argument beyond our Minnesota caselaw.

until payment becomes available to the property owner." 632 N.W.2d at 589. However, property in a quick-take proceeding is deemed taken when title and possession are transferred to the condemning authority, which is before the award is filed. *See Anda*, 789 N.W.2d at 874. Therefore, *In re Condemnation by City of Minneapolis* does not support the Stoddards' position that they are entitled to interest before the award or the transfer of title and possession.

Finally, the Stoddards rely on *Bohnen* in support of their position that, although section 117.195, subdivision 1, explicitly allows interest on eminent-domain awards from the time of the condemning authority's possession, it does not prohibit the accrual of interest when the date of the taking occurs prior to the date of possession. *See* 140 N.W.2d at 842. They argue that under *Bohnen*, the town is obligated to pay interest from the date of the stipulated taking, even if formal transfer of possession occurred later.

Our review of *Bohnen* indicates that it does not support the Stoddards' argument that a property owner is constitutionally entitled to interest from the stipulated date of a taking. Notably, the interest statute in effect when *Bohnen* was decided required only interest from "the time of the filing of the commissioners report," regardless of when possession transferred. *Id.* at 840 n.1; Minn. Stat. § 117.16 (1965). Thus, in *Bohnen*, the fact that possession transferred at a different date was irrelevant in determining when interest began to accrue. We also note that, even if the current interest statute was in place when *Bohnen* was decided, the outcome would have been the same because there the filing of the commissioners' award occurred prior to the transfer of possession. *See* 140 N.W.2d at 839; Minn. Stat. § 117.195, subd. 1 (2018) ("All damages allowed under this chapter, whether by the commissioners or upon appeal, shall bear interest from the time of the filing of the commissioners' report or from the date of the petitioner's possession whichever comes first.").

Constitutionality of section 117.195

The Stoddards argue that if Minn. Stat. § 117.195, subd. 1, does not provide for compensation from the stipulated date of the taking in this case, it is unconstitutional. We disagree. As we noted in *Baillon Co.*, "the determination of the interest rate necessary to provide the landowner with just compensation is a judicial function. Courts therefore are not bound by statutory interest rates in the condemnation context." 480 N.W.2d at 676. Therefore, even if section 117.195 does not provide just compensation in every case, the district court may award additional interest on a case-by-case basis to satisfy just-compensation requirements.

We agree with the Stoddards that the district court erroneously determined that section 117.195 operates to prohibit the recovery of interest "where the date of the taking is before the date of possession."[4] However, we nonetheless determine that the district court's application of the law in this case provided the Stoddards with interest to satisfy constitutional requirements. This is so because the district court correctly determined that the Stoddards were not entitled to interest from the date the parties stipulated that a taking took place—October 5, 2015—to the date a taking took place as a matter of fact and law—February 2, 2017.

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[4] Nothing in the statute prohibits additional interest—the statute simply does not provide for it.

Because we determine that the Stoddards are not entitled to interest from the stipulated date of the taking until the date the town took possession of and title to the property, we do not consider whether they are entitled to post-judgment interest on the pre-judgment interest.

Affirmed.